

REMARKS

Allowed claims 30-39 are pending in this application. Applicant submits this Rule 312 Amendment to correct a formal matter and to submit a statement of the substance of an interview conducted on March 18, 2005.

Applicant requests that the Primary Examiner, pursuant to MPEP §714.16, enter this Rule 312 Amendment as it embodies merely the correction of a formal matter in claim 30 without changing the scope thereof. Specifically, the Examiner's Amendment on page 2 of the Notice of Allowability mailed from the Patent Office on April 12, 2005 makes line 5 of claim 30 read as follows:

--propagating within a computer-implemented system including--

Applicant notes, however, that this does not accurately reflect the amendment that was agreed upon in the telephone interview with Randy Gard on March 18, 2005. Agreement was reached in that interview to add "within a computer-implemented system" to line 5, however, the Examiner's Amendment also inadvertently deletes the word "constraints" from line 5. Line 5 of claim 30, as agreed to in the interview of March 18, 2005 should read:

--propagating within a computer-implemented system constraints including--

Claim 30, in the listing of claims on page 2, is presented as agreed to. Applicant notes that the word "constraints" in line 5 of claim 30 is not underlined as an addition to the claim, nor is the claim listed as "currently amended." Applicant does not view this correction as a claim amendment since Applicant never agreed to delete the word "constraints" from line 5 of claim 30. Accordingly, this Rule 312 Amendment does not alter the scope of claim 30, is not made in response to a rejection of claim 30, and should not give rise to any estoppel with respect to any later determination of a range of equivalents under the Doctrine of Equivalents.

Pursuant to 37 C.F.R. §1.133(b), Applicant also requests that the following statement of the substance of the interview conducted on March 18, 2005 be made of record. In that telephone interview Examiner Marissa Thein discussed claim 30 with Applicant's representatives Randy Gard and Robert Hayden. Examiner Thein explained that claim 30, although previously agreed to be allowable in a prior interview, would not be allowed unless the claimed method recited some physical structure. Mr. Gard noted that methods can be patentable without reciting physical structure. Examiner Thein noted that the requirement to recite physical structure in the method claim was a specific requirement of the art unit examining the application. Mr. Gard and Examiner Thein agreed to the amendment of claim 30 provided in the Examiner's Amendment in the Notice of Allowability, as corrected above.

Applicant asserts that claim 30 was patentable without the further amendment of March 18, 2005 but that Applicant agreed to the amendment in order to gain allowance of claims 30-36 after protracted examination. Specifically, the amendment was not required to further distinguish the claim over the prior art with respect to either 35 U.S.C. §§102 or 103, nor was the amendment necessary to overcome a rejection or objection under 35 U.S.C. §§101 or 112. Accordingly, the Examiner's Amendment of March 18, 2005 does not alter the scope of claim 30, was not made in response to a rejection of claim 30, and should not give rise to any estoppel with respect to any later determination of a range of equivalents under the Doctrine of Equivalents.

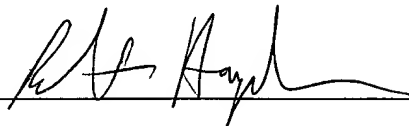
Applicant also notes that the present patent term adjustment under 35 U.S.C. §154(b) is 198 days. Applicant requests that the patent term adjustment be extended to account for any further delay in the issuance of a patent from this application, where such delay is due to consideration and entry of this 312 Amendment.

Should the Examiner have questions, the Applicant's undersigned attorney may be reached at the number provided.

Respectfully submitted,

John M. Mela

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